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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,626	07/28/2003	Steven M.H. Wallman	10392/460043	4309

7590 04/02/2009
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EXAMINER

GREENE, DANIEL LAWSON

ART UNIT	PAPER NUMBER
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3694

MAIL DATE	DELIVERY MODE
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04/02/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/627,626	Applicant(s) WALLMAN, STEVEN M.H.	
	Examiner DANIEL L. GREENE	Art Unit 3694	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/23/08, 12/22/08, 10/27/08</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. Claims 1 and 2 are pending. Applicants 12/09/2008 response to the previous Office action mailed 7/9/2008 has been considered and entered. Accordingly an action on the merits of amended claims 1 and 2 follows.

Response to Amendment

2. Applicant's amendments and arguments in support thereof have obviated the contentions set forth in sections 2-6 of said previous Office action, accordingly said contentions are hereby withdrawn.

Response to Arguments

3. Applicant's arguments regarding section 7 of said previous Office action have been fully considered but they are not persuasive.

Applicant argues:

“Neither Maggioncalda et al. nor Young et al. teach transmitting a portfolio trading order by a computer. Prior to the present invention by former SEC Commissioner Steven M.H. Wallman, trades to implement a desired portfolio, such as that created by Maggioncalda et al., were implemented one by one in a manner that prevented small amounts of money from being used to purchase entire portfolios of securities. Therefore, the next logical step after Maggioncalda et al. would be to submit multiple trading orders, one for each security included in the portfolio of Maggioncalda et al. Simply put, the idea of trading entire portfolios like individual securities did not exist at the time of Maggioncalda et al. Therefore, the Applicant respectfully submits that claims 1-2 are patentable over Maggioncalda et al. in view of case law.”

Response:

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Maggioncalda et al. clearly sets forth in, for example, Figures 4-5 a risk-return pointer, as well as various assets, see for example Figure 5a. Col. 10 lines 20-30 discloses, for example, various financial products. It is considered that the products listed therein can be understood to read on a "portfolio" in that a fund or index is actually based on a portfolio of assets. Accordingly, trading one share of these mutual funds is the same as trading a portfolio.

Further, as set forth in said previous Office action, it is the Examiners position that the act of trading an entire portfolio would logically flow from trading individual stocks within a single portfolio. This is evident in the fact that the end result of either method is the same, i.e. a rebalanced portfolio at the desired risk level. Again, per case law and logical reasoning, one would be motivated to combine repetitive tasks into one task for the purpose of saving time, ease or processing, etc.

Accordingly the rejection set forth in section 7 of said previous Office action is sustained and incorporated herein by reference.

Claim Rejections - 35 USC § 103

4. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maggioncalda et al. in view of either case law or Young ('409) for the reasons set forth in section 7 of the previous office action mailed 7/9/2008.

See the discussion of this topic in section 3 above wherein it is understood that Mutual funds are considered a portfolio, each mutual fund has an inherent risk and trading said mutual funds satisfies the claimed limitations.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL L. GREENE whose telephone number is (571)272-6876. The examiner can normally be reached on Mon-Thur.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James P. Trammell can be reached on (571) 272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

7. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. L. G./
Examiner, Art Unit 3694
2009-03-28

/James P Trammell/
Supervisory Patent Examiner, Art Unit 3694

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